IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.400 OF 2007

M/s.Ashirwad Traders,
through its Proprietor
Shri Hiralal Balnath Gugale & Ors. : Applicants

V/s.

Shri Govind Ramchandra Malkari : Respondent

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Mr.R.N.Sanghavi i/b. M/s.Sanghavi & Associates for the applicants.

Mr.Anil Subramanium for the respondent.

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CORAM : S.A.BOBDE, J.

DATE : JULY 27, 2007.

P.C.

1. Admit.

By consent, taken up for final hearing.

2. The main contention of Mr.Sanghavi in this Civil Revision Application is that the finding of bona fide need in favour of the respondent is vitiated by non-consideration of additional premises which were in possession of Mrs.Leelabai Chhajed, who is said to have surrendered the same to the plaintiff. This submission is

based on paragraph 18 of the cross-examination.

3. The learned counsel for the respondent fairly concedes that this issue has not been considered by the lower appellate Court.

4. In the circumstances, the impugned order is hereby set aside and the matter is remanded back to the lower appellate Court for considering the question of bona fide need afresh, having regard to the additional premises said to have been surrendered by Mrs.Leelabai Chhajed in favour of the respondent. The Civil Revision Application is disposed of accordingly.

5. Interim relief to continue for a period of four weeks from today. The petitioner may apply for further interim relief to the appellate Court. The appellate Court is directed to decide the appeal not later than six months from the date the parties appear before it. The parties are directed to appear before the appellate Court on 13.8.2007.

S.A. BOBDE, J.